



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 30, 1996

Mr. Ylise Janssen  
Coordinator for Legal Services  
Corpus Christi Independent School District  
P.O. Drawer 110  
Corpus Christi, Texas 78403-0110

OR96-1563

Dear Mr. Janssen:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 33810.

The Corpus Christi Independent School District (the "district") received a request for "the principal's file" regarding an alleged assault on a particular parent and child by a teacher, as well as a "complete disciplinary record of the teacher." You state that the district has no disciplinary record on the teacher involved in this case and contend that the remaining responsive documents are protected from disclosure under sections 552.101 and 552.103 of the Government Code.

Section 552.103(a) excepts from required public disclosure information:

(1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and

(2) that the attorney general or the attorney of the political subdivision has determined should be withheld from public inspection.

When asserting section 552.103(a), a governmental body must establish that the requested information relates to pending or reasonably anticipated litigation. However, we need not decide whether litigation is pending or reasonably anticipated and whether

the information relates to this litigation because the requestor, a representative for the parent of the student, has an affirmative right of access to the records at issue. Family Educational Rights and Privacy Act of 1974 ("FERPA"), 20 U.S.C. § 1232g(a)(1)(A), (d) (parent or adult student has affirmative right of access to that student's education records). Section 552.103 is a general exemption, whereas FERPA applies to specific information in the district's possession. Because specific statutes prevail over general ones, *Cuellar v. State*, 521 S.W.2d 277 (Tex. Crim. App. 1975); *Sam Bassett Lumber Co. v. City of Houston*, 198 S.W.2d 879 (Tex. 1947), FERPA supercedes section 552.103. See also Open Records Decision No. 451 (1986). Therefore, the district may not rely on section 552.103 to withhold any of the requested information.

You also raise section 552.101 of the Government Code, which excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." It appears that portions of the requested records may be excepted from disclosure under FERPA, 20 U.S.C. § 1232g.<sup>1</sup> Information must be withheld from required public disclosure under FERPA only to the extent "reasonable and necessary to avoid personally identifying a particular student." Open Records Decision Nos. 332 (1982), 206 (1978). Because you have submitted to this office records which have not been de-identified, we have marked the portions of the documents which we conclude must be withheld under FERPA to avoid personally identifying other students. The remainder of these documents may not be withheld under section 552.101 of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Todd Reese", with a stylized flourish at the end.

Todd Reese  
Assistant Attorney General  
Open Records Division

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<sup>1</sup>This office has recently issued Open Records Decision No. 634 (1995), which concluded: (1) an educational agency or institution may withhold from public disclosure information that is protected by FERPA and excepted from required public disclosure by sections 552.026 and 552.101 without the necessity of requesting an attorney general decision as to those exceptions and (2) an educational agency or institution that is state-funded may withhold from public disclosure information that is excepted from required public disclosure by section 552.114 as a "student record," insofar as the "student record" is protected by FERPA, without the necessity of requesting an attorney general decision as to that exception.

RTR/rho

Ref.: ID# 33810

Enclosures: Marked documents

cc: Mr. Charles C. Webb, Jr.  
Webb & Salyer, P.C.  
710 Mesquite  
Corpus Christi, Texas 78401  
(w/o enclosures)